

### **REMARKS**

The Office Action mailed January 10, 2003, has been received and carefully reviewed. Reconsideration and withdrawal of the rejections of the claims of the above-identified application is respectfully requested. Claims 8-17 have been canceled and new claims 18-22 have been added. New claims 18-22 are supported by the specification as originally filed, for example at page 8, lines 20-24 and page 15, lines 26-32. No new matter has been added.

### **Information Disclosure Statement**

An IDS was filed August 14, 2002, however, no initialed copy of the 1449 has been received. Applicants request a copy of the 1449 be included with the response to this amendment.

### **Rejections under 35 U.S.C. § 112, second paragraph**

Claims 8-17 were rejected as being indefinite. New claims 18-22 do not recite the language indicated as being indefinite.

### **Rejections under 35 U.S.C. § 112, first paragraph**

Claims 8-17 were rejected as not enabled by the specification for lacking critical or essential features. New claims 18-22 recite a method in which antibodies are used for detecting HCV core antigen, and in the same vessel a peptide that lacks epitopes recognized by the antibodies used for detecting core antigen is used for detecting HCV core antibodies. Using such an antigen allows for the simultaneous detection of HCV antigen and anti-HCV antibodies in a sample. Regarding the assertion that antigenic peptides of specific regions of the HCV polyprotein and/or antibodies that bind at specific positions on the HCV polyprotein are critical, Applicant submits that the specification teaches such antigens and antibodies as particular embodiments, but not critical features. The essential features of the claimed method are described in the specification on page 15, lines 26-32, as using an antigenic peptide for antibody detection that has epitopes that are not recognized by the antibody used for antigen detection. The different specific antigen epitope regions described on page 16 are various embodiments of

the invention, but are not critical or essential features of the method. Similarly, the description of various specific antibody binding regions is exemplary, but not critical or essential.

**Rejections Under 35 U.S.C. §102(a)**

Claims 8-17 were rejected as being anticipated by Aoyagi et al. Claims 8-17 were rejected as being anticipated by WO 99/06836. Applicants hereby submit a verified translation of the foreign priority document, the Japanese Patent Application No. 10-216094, filed July 30, 1998. The above cited references were published after the priority date and thus do not qualify as prior art. Withdrawal of the rejections is respectfully requested.

**Double Patenting Rejection**

Claims 8-17 were provisionally rejected as being unpatentable over claims 1-7 of copending application 10/133,007. While not conceding the correctness of the rejection, Applicants will submit a Terminal Disclaimer when the claims are otherwise indicated as allowable.


It is respectfully submitted that each of the presently pending claims is in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' representative at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.



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Respectfully submitted,

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